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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,389	12/10/2003	Robert H. Lamber	5448	4670

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,389

Applicant(s)

LAMBER, ROBERT H.

Examiner

Dmitry Suhol

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3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11 and 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 11, the features encompassed by the phrase "small screen appearance" are not clear. It is not clear what structural features are intended to be claimed (i.e. are applicants simply attempting to claim a small size, a specific shape or something else altogether). For purposes of examination it is assumed that applicants are claiming a small insert.

Regarding claim 16, the features encompassed by the phrase "black screen appearance" are not clear. It is not clear what structural features are intended to be claimed (i.e. are applicants simply attempting to claim a black color, a small size, a specific shape or something else altogether). For purposes of examination it is assumed that applicants are claiming a small black insert.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Calvert '437. Calvert discloses a sewing thimble containing all of the claimed elements including, a finger tip encirclement worn on a finger (figures 1 and 3) as required by claim 1, having a surface positioned thereon to be rubbed between at least two fingers (surface 16) as required by claim 1.

Regarding the particular finger that the encirclement is worn on as required by claims 2-3, since Calvert clearly states that his device accommodates a range of different finger sizes (col. 1, lines 59-61) it is inherently capable of being worn any finger desired by the user.

Regarding the materials of manufacture as required by claims 4-7 (i.e. natural leather), Calvert discloses that his device is made of a natural leather (col. 2, lines 66+ and col. 3, lines 1-10).

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Calvert '059. Calvert discloses a sewing thimble containing all of the claimed elements including, a finger tip encirclement worn on a finger (thimble 2) as required by claim 1,

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having a surface positioned thereon to be rubbed between at least two fingers (top surface of body 4 holding member 14) as required by claim 1.

Regarding the particular finger that the encirclement is worn on as required by claims 2-3, since Calvert clearly states that his device accommodates a range of different finger sizes (col. 1, lines 45-46) it is inherently capable of being worn any finger desired by the user.

Regarding the materials of manufacture as required by claims 4-7 (i.e. natural leather), Calvert discloses that his device is made of a natural leather (col. 3, lines 39-42).

A surface having discernible point of attention smooth to tapping or rotational touch, as required by claims 8-9, is shown as element 14 and described at col. 4, lines 1-2.

Claims 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Cao '186. Cao discloses a finger strap containing all of the claimed elements including with respect to claims 14 and 18, a finger tip encirclement (2) worn on one of the index, middle, ring, and little fingers (figure 4) having a magnetic surface (element 1, paragraph 0013).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calvert '059 in view of Brull '515. Calvert discloses all of the claimed elements, as stated above, and further including that small insert (14) maybe permanently attached (stitching 16 and col. 3, lines 65-67), as required by claim 15, and face the users palm when worn on the desired finger (inherent), as required by claim 13.

Calvert fails to teach that his member 14 is magnetic as required by claims 10-13. However, Brull discloses a device like that of Calvert which teaches that it is known to provide the protective surface (12) of such devices with a magnetic layer (16) like common refrigerator magnets (known to be black colored and have minimal strength). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to have provided protective member 14 of Calvert with a magnetic layer for the purpose of allowing the user of the thimble to retrieve objects without requiring the tip of the user's finger to contact the object being retrieved.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dmitry Suhol
Examiner
Art Unit 3714

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